THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13251 of 2005

Dated: 07-12-2006

Between:

O. Obulesu and others.

..... PETITIONERS

AND

The Government of A.P., rep. by its Principal Secretary, Industries and Commerce Department, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.13251 of 2005

ORDER:

Respondent No.8 is a mini steel plant established within the limits of Hussainapuram, Jammulapadu and Veerapuram Village on the banks of river Penna. The said company approached respondent No.1 to permit to draw water at 2.5 MGD from February to June for commercial operations of the plant. When the Government issued G.O.Ms.No.4 dated
06-01-1997 prohibiting respondent No.8 from drawing 2.5 MGD water from February to June, respondent No.8 again approached respondent No.1 in 1999 informing that in view of the proposed commencement of commercial production from January, 1999, unless they are permitted to draw 2.5 MGD water, their production would be non-starting. The matter was placed before the State Investment Promotion Committee (SIPC). SIPC considered the report of the Director, Ground Water Department of Government of Andhra Pradesh, and permitted respondent No.8 to draw ground water to the extent of 2.5 MGD from Penna river Alluvium through infiltration wells subject to the conditions stipulated in the earlier orders of the Government G.O.Ms.No.4 dated 06-01-1997. The following additional conditions were also imposed by the Government, while issuing G.O.Rt.No.281 dated 28-04-1999.

1. The permission is given to draw ground water from the remaining period of the year i.e., March to June also @2.5 MGD from the Pennar river alluvium near Bdaipally(v) from the 28 acres of land through 8 Tube/infiltration wells as per the pattern of pumping from the 8 recommended wells stated by ground water Department in Statement appended.
2. The drawals in the above period (March to June) are permitted subject to
   a) normal or better rainfall conditions
   b) Normal or better flow condition in the river pennar.
   c) Extraction of ground water from the recommended area only.
   d) periodic review by ground water department.

The petitioners are residents of Aluru Village. They filed instant writ petition alleging that respondent No.8 is drawing water in violation of the conditions imposed by the Government in G.O.Ms.No.4 dated
06-01-1997 through G.O.Rt.No.281 dated 28-04-1999, which is resulting in hardship and loss to the people in the villages for getting drinking water. The petitioners seek a direction to the respondents to ensure that respondent No.8 does not violate the conditions of the grant.

The Commissioner of Industries filed counter-affidavit on behalf of respondents 1 and 2. While denying the allegations made by the petitioners, it is stated that the Government issued orders in G.O.Rt.No.281 dated 28-04-1999 accepting the recommendations of SIPC and that all precautions were taken to prevent depletion of ground water. If respondent No.8 is prohibited from drawing water from Penna river, the same would result in difficulty in operating the plant leading to depriving employment to thousand people.

Respondent No.4, namely, the Deputy Director, Ground Water Department, has filed separate counter-affidavit. It is stated in paragraph No.5 as under.

> "……it is respectfully submitted that the allegations are false and far from truth. The R4 herein has conducted investigations during Oct,2005 which indicated that the SJK steel corporation Ltd., constructed 9 tube wells i.e., 8 wells for pumping and 1(one) for reserve, as against 12 Nos recommended in the river bed as per the permission issued vide G.O.Ms.No.4, Industries & Commerce Department, dt.6/1/97 (8 tube wells +
> 4 reserve) to the SJK Steels. The depth of the wells ranges from 11.60 m to 13.60 m and the SJK Steel drawing 2.1 MGD water against the recommended 2.5 MGD between July to Feb.
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> It is submitted that as per the G.O.Ms.No.281, Industries and Commerce Department, dt.28/4/99 the SJK Steels has constructed 4 infiltration wells and 5 tube wells (kept one for reserved) against 8 Nos. of Tube Wells/Infiltration wells, recommended in the 28 acres land. The depth range of the I.W. is 11.50 – 15.25 m and depth range of Tube wells 16.80 m to 20.20 m and they are within the recommended depth range. The drawal of water from these wells from March to June is subject to normal rainfall conditions and flow into river. (Yield test data is enclosed in the statement as material paper)."

The petitioners have not filed any reply-affidavit denying the counter-averments. Therefore, this Court is of the considered opinion that the writ petition is filed without any respect to the facts. However, it must be observed that respondent No.4 should keep a constant vigil on the drawal of water from Penna river and see that if there is any scarcity for drinking water, drawal of water from Penna river should be stopped forthwith.

Though interlocutory applications are listed, the writ petition, with the above observations and direction, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

07th December, 2006
ghn